

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN W. PEROTTI,

Plaintiff,

Case No. 05-60172

v.

MS. MARLBERRY, *et al.*,

Hon. John Corbett O'Meara

Hon. R. Steven Whalen

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO ALTER/AMEND
ORDER DISMISSING DEFENDANTS PLACE AND STECH**

Before the court is Plaintiff's motion to alter/amend the court's March 19, 2012 order adopting the report and recommendation of Magistrate Judge R. Steven Whalen. Magistrate Judge Whalen recommended that the court grant the motion to dismiss filed by Deputy U.S. Marshals Jason Place and Dan Stech. Magistrate Judge Whalen found that this court lacks personal jurisdiction over Defendants, who reside in Ohio. In addition, he found that Plaintiff's claims against them are barred by *res judicata*, because Plaintiff filed similar claims against these Defendants in Ohio, which were dismissed.

Plaintiff requests additional time to file objections to the report and recommendation, explaining that he broke his arm and was transferred to a different facility, such that he did not have access to his case file or law library when he filed his response to the motion to dismiss. Although the court understands Plaintiff's predicament, a review of the underlying briefs and legal authority reveals that the law is clear with respect to the application *res judicata* and the lack of personal jurisdiction over the Defendants here. After a *de novo* review, the court adopted Magistrate Judge Whalen's report and recommendation and reaffirms that decision here.

Therefore, IT IS HEREBY ORDERED that Plaintiff's March 30, 2012 motion to alter/amend the order dismissing Defendants Place and Stech is DENIED.

s/John Corbett O'Meara
United States District Judge

Date: May 17, 2012

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, May 17, 2012, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager